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RECENT CASES

ACCESSION—DOCTRINE—EFFECT OF.—BLACKWOOD TIRE & VULCANIZING CO. v. AUTO STORAGE CO., 182 S. W. (Tenn.) 576.—*Held*, where the purchaser of an automobile, title to which was retained by the seller, fitted the machine with tire casings and the seller on nonpayment retook the machine, title to the tire casings passed to the seller, the seller of the casings not having retained title, for such is the rule of accession, which denotes the right of the owner of corporeal property to any increase thereof from any cause either actual or artificial.

The case carries the doctrine of accession too far. Tire casings are very easily detached. Such easily distinguishable appliances to machinery may be detached if done without injury to the principal thing. *Alley v. Adams*, 44 Ala. 609. Nor does the doctrine of accession apply in chattel mortgages or conditional sales where new parts of machinery replace those worn provided they are readily distinguishable and can be removed without damage to the whole. *Fowler v. Hoffman*, 31 Mich. 215. Ordinary repairs upon a personal chattel become a part thereof by accession, but if easily separable and capable of being distinguished from the articles to which they have been added, the rule is otherwise. 1 Cyc. 226; 1 R. C. L. 119; *Clark v. Wells*, 45 Vt. 4. It is held that a mortgage upon a stock of merchandise attaches only to such as was in stock and not to that added by purchase. *Godfrey & Son Co. v. Citizens' National Bank*, 64 Nebr. 477. Similarly where there has been substitutions of one press for another in a printing establishment, the one under the original mortgage being set aside. *Vinall v. Hendricks*, 33 Ind. App. 413. The principal case extends the doctrine beyond the limits set down by prior cases.

A. S. B.

CARRIERS—NOTICE OF CLAIMS FOR DAMAGE TO LIVESTOCK—EFFECT OF TIME LIMITATION AS TO RECOVERY FOR INJURIES SUBSEQUENTLY APPEARING.—BROADHEAD v. ATCHISON, T. & S. F. RY. CO., 155 PAC. (KAN.) 20.—Due to defendant's negligent delay, plaintiff's shipment of cattle was temporarily unloaded, enroute, into pens then being disinfected by order of the Bureau of Animal Industries. For injury to the cattle by the dipping and the rough treatment incidental thereto, plaintiff brought suit without having given notice as required by the contract providing that as condition precedent to recovery some officer of the company must be notified in writing before removal or slaughter of the stock, or intermingling with other stock. Verdict for plaintiff, both as to injuries apparent on arrival of the cattle at destination, and injuries developing later. Defendant appealed. Reversed and remanded. *Held*, that written notice, before removal, was not required as to damages apparent on delivery, but was required as to damages thereafter appearing. West, J., *dissents*.

In general, a stipulation in the contract of shipment that as a condition precedent to recovery of damages, written notice of claim must be

filed before removal of the stock or within a limited time, is reasonable and valid. *St. Louis & S. F. Ry. Co. v. Wynn*, 153 P. (Okla.) 1156; *St. Louis Southwestern Ry. Co. v. Burnett*, 174 S. W. (Ark.) 16; *Contra: Nashville, C., & St. L. Ry. Co. v. Hinds*, 60 So. (Ala. App.) 409. But such a stipulation is to be construed liberally in favor of the shipper. *Chicago R. I. & P. Ry. Co. v. Spears*, 31 Okla. 469. It usually does not prevent recovery for injury to stock which is evident on arrival at its destination, even though notice be not given, since the carrier has sufficient means of inspecting and notice would not benefit him. *Southern Ry. Co. v. Bacon*, 159 S. W. (Tenn.) 602; *Ray v. Mo. K. & T. Ry. Co.*, 90 Kan. 244. Nor is this provision held to apply to claims for damage from fall in market price or loss of market due to the carrier's delay, since inspection of the shipment is here immaterial. *Riddler v. Mo. Pac. Ry. Co.*, 184 Mo. App. 709; *Estes v. Denver & R. G. Ry. Co.*, 113 Pac. (Colo.) 1005; *Hayes v. Mo. K. & T. Ry.*, 84 Kan. 1. Even where the protection afforded the carrier is material, however, the right of the shipper to know and estimate the extent of his full loss is paramount. To this effect see *Eoff & Snapp v. Scullin*, 179 S. W. (Ark.) 663; *Burns v. Chicago, R. I. & P. Ry. Co.*, 132 S. W. (Mo. App.) 1; *Pierson v. Northern Pac. Ry. Co.*, 112 Pac. (Wash.) 509. In these cases it was held that the stipulation did not apply when the shipper could not discover the injury to his property or ascertain its extent within the limited time. The decision in the principal case is probably against the weight of authority.

C. B.

CONFLICT OF LAWS—SECONDARY CONTRACTUAL OBLIGATION—LAW GOVERNING.—*LINDSAY V. COLLINGS*, 182 S. W. (Tex.) 879.—In an action brought in Texas on a note made and payable in California, and secured by a mortgage on land there situated, *held*, that a California statute providing that a foreclosure of the mortgage shall bar any subsequent action on the note thus secured, is binding as a part of the law of the contract, and that a foreclosure of the mortgage may be pleaded in bar of the Texas suit. *Higgins, J., dissenting.*

"It is impossible to consider a contract separately from the remedy given by the law of (for?) its enforcement, because it is this that supplies it with legal validity. . . . It is a branch of its vital existence—the thing that gives it life. Without it the contract ceases to be. . . . The statute invoked provides an absolute defense in the state where the contract was made; therefore it must be so held in the state where the suit was brought." *Prin. case*, 881. The use of the word "remedy" in this connection is misleading, but it is clearly used to denote the secondary legal relations under the contract, and not matters of procedure, like statutes of limitation. See *YALE LAW JOURNAL*, Vol. XXV, p. 147.

C. R. W.

CONSTITUTIONAL LAW—POLICE POWER—CLASS LEGISLATION—DISCRIMINATION.—*PEOPLE V. WEINER*, 110 N. E. (Ill.) 870.—*Held*, that the Act of July 1, 1915, of the Illinois legislature which related to the use of second-hand materials in the manufacture of mattresses, quilts and bed com-